

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7674

BILL NUMBER: SB 283

DATE PREPARED: Jan 2, 2001

BILL AMENDED:

SUBJECT: Death Sentences Sought on Basis of Race.

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FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill provides that if: (1) a defendant is charged with a murder for which the state seeks a death sentence; (2) the defendant makes a prima facie showing that racial considerations played a part in the state's decision to seek or impose the death sentence; and (3) the state fails to rebut the prima facie showing; the death sentence may not be imposed on the defendant.

The bill specifies that a prima facie showing that racial considerations played a part in the state's decision to seek or impose the death sentence is established if evidence shows that: (1) in the county where the defendant was charged, death sentences are sought or imposed upon persons of one race with a frequency that is disproportionate to their representation among the total number of persons arrested for, charged with, or convicted of crimes for which the state may seek the death sentence; (2) in the county where the defendant was charged, death sentences are sought or imposed as punishment for the murder of victims who are members of one race with a frequency that is disproportionate to their representation among the total number of persons who are victims of crimes for which the state may seek the death sentence and that have resulted in criminal charges being filed by the state; or (3) racial considerations played a part in the state's decision to seek or impose the death sentence against the defendant.

The bill requires the state to establish by clear and convincing evidence that identifiable and pertinent factors not based on race persuasively explain the state's decision to seek or impose the death sentence to rebut a prima facie showing that racial considerations played a part in the state's decision to seek or impose the death sentence.

Effective Date: July 1, 2001.

Explanation of State Expenditures: This bill could increase the involvement of the Office of Attorney General and the State Public Defender's Office for offenders who are currently on death row if this issue is raised during the course of trial post-conviction relief. This bill allows defendants who were tried or

sentenced to death before July 1, 2001, to raise racial considerations as an issue. As of December 2000, 28 Caucasians and 13 African-Americans were on death row in Indiana. This bill would likely increase involvement of both state entities in future death penalty cases as well.

Both the Office of the Attorney General and the State Public Defender's Office are involved in portions of death sentence conviction appeals. The Office of Attorney General, representing the state of Indiana as prosecutor, is involved in death penalty cases in appeals made by the criminal defendant to the State Supreme Court and in federal court. The State Public Defender's Office represents the criminal defendant in all post-conviction proceedings in state court.

Explanation of State Revenues:

Explanation of Local Expenditures: This bill may increase costs for cases in which the death penalty is sought if the prosecuting attorney seeking a death sentence must prepare additional analysis demonstrating that no racial consideration played a part in the state's decision to impose the death penalty. Prosecutors' offices and public defenders' offices may experience additional administrative costs in preparing cases that involve racial bias allegations.

Research indicates that the trial and appeals costs for death penalty cases can be two to three times more than the cost of incarceration. (Death penalty case costs are further inflated due to additional police investigation and court time, prosecution resources expended, or the costs of a lengthy jury trial with a sequestered jury.) These expenses are paid from the county general fund. Counties can be reimbursed for half of their expenditures for indigent defense under the Public Defense Fund.

Explanation of Local Revenues:

State Agencies Affected: Office of Attorney General, State Public Defender's Office.

Local Agencies Affected: Trial courts, prosecutors, local public defenders.

Information Sources: